

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:  
  
ALL CLASS ACTIONS

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**PLAINTIFFS' SUPPLEMENTAL DEPOSITION DESIGNATIONS  
(AND SCHERING-PLOUGH CORPORATION'S AND WARRICK  
PHARMACEUTICALS CORPORATION'S  
COUNTER-DESIGNATIONS/OBJECTIONS)<sup>1</sup>**

Plaintiffs hereby supplement their designations with the following depositions (highlighted in yellow) and Schering-Plough Corporation and Warrick Pharmaceuticals Corporation hereby present their counter-designations (highlighted in orange) and objections to be used at trial.

**A. Thomas Kelly<sup>2</sup>**

| <b>Offered by:</b> | <b>Thomas Kelly<br/>June 15, 2004</b> | <b>Objection/Counter-<br/>Designation</b> |
|--------------------|---------------------------------------|---|
| Plaintiffs         | 4:9-10                                | Relevance                                 |
| Plaintiffs         | 5:13-21                               | None                                      |
| Plaintiffs         | 27:5-28:8                             | <b>28:9-11</b>                            |

<sup>1</sup> Schering's and Warrick's counter-designations are in bold font.

<sup>2</sup> Plaintiffs inadvertently omitted the deposition of Thomas Kelly dated June 15, 2004 from their initial disclosures.

|            |             |  |
|------------|-------------|--|
| Plaintiffs | 28:12-22    | <b>29:18-21</b>  |
| Plaintiffs | 29:22-30:5  | Ambiguous Question (29:22-30:2)<br><b>30:6-18</b>  |
| Plaintiffs | 31:20-32:1  | None   |
| Plaintiffs | 45:18-46:9  | <b>45:9-17</b><br><b>46:10-17</b><br><b>48:11-19</b>   |
| Plaintiffs | 46:18-47:14 | None   |
| Plaintiffs | 47:18-20    | <b>47:15-17</b><br><b>47:21-48:1</b>   |
| Plaintiffs | 49:22-51:12 | Ambiguous Question (49:22 – 50:1)<br>Relevance<br><b>49:11-21</b>  |
| Plaintiffs | 71:18-73:12 | Ambiguous Question (73:17-18)<br>Note: Plts' have only designated through 73:12 but have highlighted to 73:22<br><b>74:1-5</b> |

**B. Debra Kane<sup>3</sup>**

| <b>Offered by:</b> | <b>Debra Kane<br/>June 15, 2004</b> | <b>Objection/Counter-Designation</b>  |
|--------------------|-------------------------------------|---------------------------------------|
| Plaintiffs         | 4:4-5; 8-15                         | None                                  |
| Plaintiffs         | 5:9-12; 16-17                       | <b>5:13-15</b><br><b>5:18-6:2</b>     |
| Plaintiffs         | 34:7-35:21                          | Beyond Scope of 30(b)(6) (34:20-35:1) |
| Plaintiffs         | 36:5-8                              | None                                  |

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<sup>3</sup> Plaintiffs inadvertently omitted the deposition of Debra Kane dated June 15, 2004 from their initial disclosures.

|            |            |   |
|------------|------------|---|
| Plaintiffs | 56:4-64:10 | Ambiguous Question (57:12-13; 58:14-16) |
|------------|------------|---|

**C. Harvey Weintraub<sup>4,5</sup>**

| <b>Offered by:</b> | <b>Harvey Weintraub<br/>September 18, 2006</b> | <b>Objection/Counter-<br/>Designation</b> |
|--------------------|--|---|
| Plaintiffs         | 43:14-17                                       | Relevance                                 |
| Plaintiffs         | 46:8-10; 18-19                                 | <b>46:20-24</b>                           |
| Plaintiffs         | 46:25-47:2                                     | None                                      |
| Plaintiffs         | 48:18-20                                       | <b>48:15-17</b>                           |
| Plaintiffs         | 49:12-22                                       | None                                      |
| Plaintiffs         | 74:14-76:21                                    | <b>67:10-74:13; 76:22-77:20</b>           |
| Plaintiffs         | 82:2-5; 11-15                                  | None                                      |
| Plaintiffs         | 82:24-84:1                                     | None                                      |
| Plaintiffs         | 84:11-21                                       | <b>84:22-85:4</b>                         |
| Plaintiffs         | 85:5-10  | None                                      |
| Plaintiffs         | 85:24-86:5                                     | None                                      |
| Plaintiffs         | 86:12-24                                       | <b>86:25-87:11</b>                        |
| Plaintiffs         | 87:12-19                                       | None                                      |
| Plaintiffs         | 88:14-89:13                                    | <b>87:20-88:13; 89:14-91:18</b>           |
| Plaintiffs         | 96:9-20  | <b>96:21-23</b>                           |

<sup>4</sup> Mr. Weintraub's deposition was conducted on September 18-22, 2006. Due to the lateness of this deposition, Plaintiffs were unable to provide designations for this deposition with their initial disclosures and do so now.

<sup>5</sup> In response to Plaintiffs' initial deposition designations related to Mr. Weintraub, Schering and Warrick previously counter-designated lines **46:3-178:2** from Mr. Weintraub's deposition that began on September 18, 2006.

|            |               |  |
|------------|---------------|--|
| Plaintiffs | 96:24-97:3    | None   |
| Plaintiffs | 99:14-101:1   | <b>101:2-103:22</b>  |
| Plaintiffs | 104:13-105:11 | <b>106:5-18</b>  |
| Plaintiffs | 106:19-23     | <b>106:24-107:11</b>   |
| Plaintiffs | 111:5-113:8   | <b>113:9-114:11</b>  |
| Plaintiffs | 120:2-122:2   | <b>122:3-7</b>   |
| Plaintiffs | 122:12-123:9  | <b>123:10-125:4</b>  |
| Plaintiffs | 125:7-10      | <b>125:11-126:5</b>  |
| Plaintiffs | 130:4-6       | <b>130:7-131:2</b>   |
| Plaintiffs | 131:3-21      | <b>131:22-25</b>   |
| Plaintiffs | 132:1-135:1   | None   |
| Plaintiffs | 162:12-20     | <b>159:11-162:11</b>   |
| Plaintiffs | 180:15-17     | Relevance<br><br><b>179:16-180:14</b><br><b>180:18-181:13</b>            |
| Plaintiffs | 181:14-20     | Assumes Facts not in Evidence (181:14-15)<br>Relevance                   |
| Plaintiffs | 183:15-184:9  | Relevance<br><br><b>97:4-98:2</b><br><b>183:2-14</b><br><b>184:10-22</b> |
| Plaintiffs | 185:14-186:3  | Argumentative Question (185:19-24)                                       |
| Plaintiffs | 190:5-11      | Ambiguous Question (190:5-6)<br>Relevance<br><br><b>189:21-190:4</b>     |
| Plaintiffs | 203:1-204:4   | Relevance<br><br><b>204:5-205:23</b>                                     |

|            |  |   |
|------------|--|---|
| Plaintiffs | 205:24-206:11  | Relevance<br><b>206:12-18</b>   |
| Plaintiffs | 211:1-4  | <b>210:8-25</b><br><b>211:5-11</b>                                    |
|            | <b>Harvey Weintraub</b><br><b>September 19, 2006</b> |   |
| Plaintiffs | 240:17-23  | <b>239:13–240:16</b><br><b>240:24–241:2</b>                           |
| Plaintiffs | 248:8-249:11   | <b>250:6–16</b>   |
| Plaintiffs | 251:1-14   | None  |
| Plaintiffs | 258:21-259:6   | <b>259:7-16</b>   |
| Plaintiffs | 260:24-261:15  | Relevance<br><b>261:16–25</b>   |
| Plaintiffs | 265:24-266:11  | Lack of Foundation (265:24 – 25)<br>Relevance<br><b>268:12-269:21</b> |
| Plaintiffs | 274:13-275:2   | <b>275:3–276:20</b>   |
| Plaintiffs | 282:4-7  | <b>280:3-24</b><br><b>282:8-12</b>                                    |
| Plaintiffs | 286:15-19  | None  |
| Plaintiffs | 293:9-22   | <b>292:11-293:8</b>   |
| Plaintiffs | 321:17-322:12  | Ambiguous Question (321:24– 322:3)<br><b>322:13-20</b>                |
| Plaintiffs | 323:8-14   | <b>323:17-18</b><br><b>329:1-24</b>                                   |
| Plaintiffs | 343:15-25  | Ambiguous Question (343:15- 17; 343:21-23)<br><b>344:1-15</b>         |

|            |  |  |
|------------|--|--|
| Plaintiffs | 370:24-372:8   | Leading Question (370:24 – 371:4; 371:7-9; 371:16-19; 371:24 – 372:1; 372: 5-6)<br><b>369:19–370:4</b> |
| Plaintiffs | 376:13-16  | <b>376:6-12</b><br><b>376:17-21</b>  |
| Plaintiffs | 380:1-13   | Leading Question (380:1-3)   |
| Plaintiffs | 390:20-391:21  | Leading Question (390:20–22)<br>Relevance<br><b>391:22-392:9</b>                                       |
| Plaintiffs | 397:13-16  | Relevance<br><b>394:18-396:7</b>   |
| Plaintiffs | 408:21-409:22  | Ambiguous Question (408:25– 409:2; 409:4-6)<br><b>409:23-410:4</b>                                     |
|            | <b>Harvey Weintraub</b><br><b>September 20, 2006</b> |  |
| Plaintiffs | 447:16-23  | Leading Question (447:16-18)<br><b>446:13-447:15</b><br><b>447:24-448:15</b>                           |
| Plaintiffs | 460:2-464:10   | Vague Question (460:2-4)<br>Leading Question (461:16-20)   |
| Plaintiffs | 464:21-25  | None   |
| Plaintiffs | 465:8-15   | <b>465:1-7</b>   |
| Plaintiffs | 466:12-18  | <b>466:5-11</b>  |
| Plaintiffs | 475:19-22  | <b>475:2-18</b><br><b>475:23-476:22</b>  |
| Plaintiffs | 480:15-481:11  | <b>479:17-480:14</b><br><b>481:12-15</b>   |
| Plaintiffs | 483:21-485:3   | Ambiguous Question (483:24- 484:2)<br>Lack of Foundation (484:12-14)<br><b>485:4-487:1</b>             |

|            |  |  |
|------------|--|--|
| Plaintiffs | 511:9-513:15   | Lack of Foundation (512:2-4)<br>Ambiguous Question (513:5-8;<br>513:11-13)<br><br><b>513:16-23; 514:20-516:4</b>   |
| Plaintiffs | 516:5-13   | None   |
| Plaintiffs | 516:19-519:17  | Leading Question (517:3-6;<br>519:12-15)   |
| Plaintiffs | 526:2-528:8  | Ambiguous Question (526:2-7;<br>526:22-24)<br>Argumentative Question (527:6-8;<br>527:13)<br>Assumes Fact not in Evidence<br>(527:24-25)<br><br><b>525:15-526:1; 528:9-529:3</b> |
| Plaintiffs | 530:2-18   | Ambiguous Question (530:14-15)<br>Relevance  |
| Plaintiffs | 547:9-23   | Lack of Foundation (547:9-12;<br>547:17-18)<br><br><b>547:4-8</b>  |
| Plaintiffs | 576:1-10   | Relevance<br><br><b>575:17-25</b><br><b>576:11-577:3</b>   |
|            | <b>Harvey Weintraub</b><br><b>September 21, 2006</b> |  |
| Plaintiffs | 741:8-743:11   | Lack of Foundation (741:8-11;<br>748:18-20)<br>Ambiguous Question (742:1-5)<br>Leading Question (742:16-19;<br>742:23-743:1; 743:6-8)<br>Relevance<br><br><b>740:21-741:7</b>    |
| Plaintiffs | 753:21-754:4   | Lack of Foundation, (753:21-25)<br><b>754:5-755:3</b>  |

|            |  |  |
|------------|--|--|
| Plaintiffs | 756:20-757:14                                  | Asked and Answered (756:20-23; 757:2-4; 757:8-11)  |
| Plaintiffs | 757:22-758:6                                   | Leading Question (757:22-25)<br><b>758:7-12</b>  |
| Plaintiffs | 760:16-761:15                                  | Asked and Answered (760:16-19; 760:24-761:2)<br>Argumentative Question (761:9-12)  |
| Plaintiffs | 761:23-766:10                                  | Asked and Answered (762:24-763:2)<br>Leading Question (763:7-13; 764:10-19; 764:22-25; 765:6-8; 765:16-18)<br>Improper Question (764:1)<br>Relevance |
| Plaintiffs | 804:6-12                                       | Asked and Answered (804:6-9)<br>Relevance  |
|            | <b>Harvey Weintraub<br/>September 22, 2006</b> |  |
| Plaintiffs | 831:24-832:3                                   | <b>831:4-7</b>   |
| Plaintiffs | 832:7-833:1                                    | Lack of Foundation (832:12-13)<br>Relevance<br><b>833:2-834:9</b>  |
| Plaintiffs | 839:11-841:21                                  | Lack of Foundation (839:21-840:2; 840:10-11; 840:17-20; 840:25-841:2; 841:15-18)<br>Vague Question (841:6-8)   |
| Plaintiffs | 852:21-853:2                                   | Ambiguous Question (852:24-25)<br><b>850:6-7; 850:13-22; 851:21-852:20</b>   |
| Plaintiffs | 861:16-862:13                                  | Lack of Foundation (861:20-21; 862:3-6)  |
| Plaintiffs | 863:1-14                                       | <b>862:14-25; 863:15-24</b>  |

|            |               |  |
|------------|---------------|--|
| Plaintiffs | 864:9-865:14  | Leading Question (864:9-14;<br>864:19-22)<br>Asked and Answered (865:4-10)<br><br><b>865:15-866:13</b> |
| Plaintiffs | 866:23-867:4  | Asked and Answered (866:23-<br>25)<br><br><b>867:5-868:10</b>  |
| Plaintiffs | 868:11-869:1  | Asked and Answered (868:11-<br>14)   |
| Plaintiffs | 883:19-884:25 | Relevance  |
| Plaintiffs | 887:4-12      | Relevance<br><br><b>887:13-888:1</b>   |
| Plaintiffs | 914:5-915:14  | Relevance<br><br><b>915:15-916:9</b>   |
| Plaintiffs | 971:5-22      | Relevance  |

**D. James Butler<sup>6</sup>**

| <b>Offered<br/>by:</b> | <b>James Butler<br/>August 11, 2005</b> | <b>Objection/Counter-<br/>Designation</b>  |
|------------------------|---|--|
| Plaintiffs             | 60:5-12                                 | Compound Question<br><br>Note: these lines were<br>previously counter-designated<br>by Schering and Warrick in<br>response to Plaintiffs' initial<br>designations<br><br><b>54:7-22; 57:8 – 60:4</b> |

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<sup>6</sup> Plaintiffs inadvertently omitted these designations from the deposition of James Butler dated August 11, 2005 from their initial disclosures.

**E. Raul Cesan<sup>7</sup>**

| <b>Offered by:</b> | <b>Raul Cesan<br/>August 31, 2005</b> | <b>Objection/Counter-<br/>Designation</b> |
|--------------------|---------------------------------------|---|
| Plaintiffs         | 75:11-16                              | Relevance<br><b>72:18 – 73:7</b>          |

**F. Portia Edens<sup>8</sup>**

| <b>Offered by:</b> | <b>Portia Edens<br/>August 9, 2005</b> | <b>Objection/Counter-<br/>Designation</b>                    |
|--------------------|--|--|
| Plaintiffs         | 35:5-9                                 | Incomplete Question<br>Vague (35:4-6)<br><b>34:12 – 35:4</b> |

**G. Peter Kamins<sup>9</sup>**

| <b>Offered by:</b> | <b>Peter Kamins<br/>July 19, 2005</b> | <b>Objection/Counter-<br/>Designation</b>  |
|--------------------|---------------------------------------|--|
| Plaintiffs         | 40:6-13; 19-20                        | None<br><br>Note: these lines were previously counter-designated by Schering and Warrick in response to Plaintiffs' initial designations |

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<sup>7</sup> Plaintiffs inadvertently omitted these designations from the deposition of Raul Cesan dated August 31, 2005 from their initial disclosures.

<sup>8</sup> Plaintiffs inadvertently omitted these designations from the deposition of Portia Edens dated August 9, 2005 from their initial disclosures.

<sup>9</sup> Plaintiffs inadvertently omitted these designations from the deposition of Peter Kamins dated July 19, 2005 from their initial disclosures.

|            |               |  |
|------------|---------------|--|
| Plaintiffs | 41:5-6; 12-13 | None<br><br>Note: these lines were previously counter-designated by Schering and Warrick in response to Plaintiffs' initial designations |
| Plaintiffs | 44:6-16       | None   |
| Plaintiffs | 75:20-21      | None<br><br>Note: these lines were previously counter-designated by Schering and Warrick in response to Plaintiffs' initial designations |

**H. Louis E. Manfredi<sup>10</sup>**

| <b>Offered by:</b> | <b>Louis E. Manfredi<br/>March 31, 2003</b> | <b>Objection/Counter-Designation</b>  |
|--------------------|---|---|
| Plaintiffs         | 116:2-13                                    | <b>115:6-12; 116:14-21</b>  |
| Plaintiffs         | 150:21-23                                   | This section was included in Plaintiffs' earlier designations, which included 150:21 – 151:11 |
| Plaintiffs         | 155:13-21                                   | Leading (155:13-14)<br><br><b>154:13-155:12; 155:22-156:1</b>                                 |

<sup>10</sup> Plaintiffs inadvertently omitted these designations from the deposition of Louis E. Manfredi dated March 31, 2003 from their initial disclosures.

**I. Jerome P. Sherman<sup>11</sup>**

| <b>Offered by:</b> | <b>Jerome P. Sherman<br/>March 6, 2002</b> | <b>Objection/Counter-<br/>Designation</b> |
|--------------------|--|---|
| Plaintiffs         | 21:5-21                                    | <b>20:21-21:4</b><br><b>21:22-22:3</b>    |

**J. Harvey Weintraub<sup>12</sup>**

| <b>Offered by:</b> | <b>Harvey Weintraub<br/>November 7, 2001</b> | <b>Objection/Counter-<br/>Designation</b>   |
|--------------------|--|---|
| Plaintiffs         | 76:1-24                                      | Vague Question (76:15-18)<br>Relevance<br>Missing Question<br>Incomplete Answer<br><br><b>75:22-25</b><br><b>76:25-77:2</b> |
|                    | <b>February 12, 2003</b>                     |   |
| Plaintiffs         | 420:6-15                                     | None  |
| Plaintiffs         | 427:16-428:3                                 | Schering previously counter-designated 427:20-428:3 in response to Plaintiffs' initial disclosures.                         |
| Plaintiffs         | 485:1-19                                     | Schering previously counter-designated this entire section in response to Plaintiffs' initial disclosures.                  |

<sup>11</sup> Plaintiffs inadvertently omitted these designations from the deposition of Jerome P. Sherman dated March 6, 2002 from their initial disclosures.

<sup>12</sup> Plaintiffs inadvertently omitted these designations from the depositions of Harvey Weintraub dated November 7, 2001, February 12, 2003, October 26, 2004 and August 25, 2005 from their initial disclosures.

|            |                         |  |
|------------|-------------------------|--|
| Plaintiffs | 515:24-516:18           | Incomplete Question<br><b>516:19-517:10</b>                              |
| Plaintiffs | 528:21-23               | None   |
| Plaintiffs | 548:2-18                | <b>548:19-549:2</b>  |
| Plaintiffs | 633:11-13               | <b>633:1-10</b>  |
| Plaintiffs | 655:10-13               | <b>653:5-22</b><br><b>655:22-656:12</b>                                  |
| Plaintiffs | 701:3-16                | <b>700:16-701:2</b><br><b>701:17-702:3</b>                               |
|            | <b>October 26, 2004</b> |  |
| Plaintiffs | 130:24-131:9            | Vague Question (130:24-131:1)<br><b>128:12-129:4</b><br><b>130:10-23</b> |
|            | <b>August 25, 2005</b>  |  |
| Plaintiffs | 63:9-64:16              | Relevance  |
| Plaintiffs | 429:24-431:1            | This designation does not exist in the deposition transcript.            |

**K. Richard W. Zahn<sup>13</sup>**

| <b>Offered by:</b> | <b>Richard W. Zahn<br/>January 15, 2003</b> | <b>Objection/Counter-Designation</b>   |
|--------------------|---|--|
| Plaintiffs         | 176:4-24                                    | <b>175:15-176:3</b><br><b>177:1-20</b> |

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<sup>13</sup> Plaintiffs inadvertently omitted these designations from the deposition of Richard W. Zahn dated January 15, 2003 from their initial disclosures.

DATED: November 3, 2006.

By /s/ Steve W. Berman  
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**CO-LEAD COUNSEL FOR  
PLAINTIFFS**

**CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE**

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on November 3, 2006, I caused copies of **PLAINTIFFS' SUPPLEMENTAL DEPOSITION DESIGNATIONS** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve and hard copy (Kane and Weintaub (Sept. 18-22, 2004) only) of the highlighted deposition transcripts of plaintiffs' designations to be served by overnight mail to the following Defendants:

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**/s/ Steve W. Berman**

Steve W. Berman

Respectfully submitted,

Schering-Plough Corporation and  
Warrick Pharmaceuticals Corporation  
By their attorneys,

/s/ Eric P. Christofferson

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Dated: November 22, 2006

**CERTIFICATE OF SERVICE**

I, Daniel Christmas, hereby certify that on November 22, 2006, I caused a copy of PLAINTIFFS' SUPPLEMENTAL DEPOSITION DESIGNATIONS (AND SCHERING-PLOUGH CORPORATION'S AND WARRICK PHARMACEUTICALS CORPORATION'S COUNTER-DESIGNATIONS/OBJECTIONS) to be served on all counsel of record by causing the same to be posted electronically via Lexis-Nexis File & Serve and by delivering copies of the highlighted deposition transcripts by hand to Plaintiffs' counsel.

/s/ Daniel Christmas  
Daniel Christmas